IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Vishnu Kumar & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 377/2003
for quashing of criminal proceedings.
...

Date of Order: October 04, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Kulwant Singh, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners seek quashing of proceedings in Criminal Case No. 119/2002, State Vs. Vishnu Kumar & ors., pending in the Court of the Chief Judicial Magistrate, Hanumangarh (for short, "the trial Court" hereinafter).

I have heard learned counsel for the petitioners and the Public Prosecutor for the State. Carefully gone through the Challan papers as also the statement of PW 1 Smt. Poonam, who is the complainant in the case.

It is contended by the learned counsel for the petitioners that before the complainant married to the present

petitioner No.1 Vishnu Kumar, she married to one Ashok Kumar and that marriage is not dissolved, therefore, the offences under Sections 498-A, 406, 323 and 504 IPC are not made out.

On careful perusal of the Challan papers and particularly the statement of the complainant PW 1 Smt. Poonam, wherein the complainant stated that she was married to Ashok Kumar but that marriage was dissolved as per the customary dissolution of marriage, it cannot be said that the marriage of complainant/non-petitioner No.2 Smt. Poonam with Ashok Kumar is still subsisting. There are serious allegations of subjecting the complainant with cruelty and harassment as also criminal breach of trust by not returning her "Istridhan", in my view, it is not a fit case warranting quashing of the criminal proceedings under the inherent jurisdiction.

Consequently, the criminal miscellaneous petition is dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs